

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO. 4352-01  
BILL NO. HB 1937  
SUBJECT: Grand Jury Proceedings  
TYPE: Original  
DATE: February 25 2000

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**FISCAL SUMMARY**

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<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Local Government</b>	<b>Exceeds (\$100,000)</b>	<b>Exceeds (\$100,000)</b>	<b>Exceeds (\$100,000)</b>

Numbers within parentheses: ( ) indicate costs or losses

This fiscal note contains 5 pages.

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## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would require a record be made of grand jury proceedings, except deliberations or voting. The record can be made by electronic recording or stenographically, with the record maintained by the clerk. CTS indicated approximately 7-10 courts currently use grand juries, with three of those being the metropolitan courts. Some of the problems that CTS noted with the proposed legislation are as follows: (1) the language could be interpreted to mean that the sound recording would be the responsibility of the circuit clerk's office, which will pose a staffing issue; (2) if the court's court reporter is used, this could present a problem for the judge to whom this person is assigned; (3) it is not clear who will transcribe the sound recorded testimony; and (4) there will be an issue of equipment and cost of maintaining the sound recording equipment. Because of the almost continuous use of grand juries in the metropolitan courts, and the frequent use of grand juries in some other courts, we estimate that five additional clerks would be needed for the judiciary to comply with this legislation. Because of problems interpreting the legislation, we are unable to provide an exact fiscal estimate at this time; however, the cost could easily exceed \$100,000.

Officials from the **Office of the St. Louis County Prosecuting Attorney** assume the proposal would have a significant fiscal impact on their budget. St. Louis County's grand jury meets one time per week and hears approximately 30 witnesses per day, for a total of 1,500 witnesses each year. Currently, St. Louis County typically records only 15 witnesses per year. This proposal would require St. Louis County to record all witnesses. St. Louis County assumes they would be required to employ a court reporter to take testimony one entire day and then to transcribe for another three to five days each week. St. Louis County assumes the proposal would result in the need to employ 1.0 FTE Stenographer (\$37,995 per year) plus fringe benefits for a total cost of \$45,974 annually. Further, St. Louis County assumes the grand jury is a division of the Office of State Courts Administrator and CTS should be responsible for the additional costs incurred as a result of this proposal.

Officials from the **Office of the City of St. Louis Circuit Attorney** assume the proposal would have a significant fiscal impact on their budget. St. Louis City assumes their costs for additional personnel, equipment, supplies, and storage would be approximately \$56,091 annually with an initial cost of approximately \$10,000 for two sets of recording equipment. St. Louis City's grand jury heard 4,000 felony cases during FY 1996. Each grand jury proceeding would have to be recorded on a separate cassette, with complex cases requiring multiple cassettes. Since 98% of their cases are true-billed with the defendants being arraigned for trial, St. Louis City assumes that nearly every cassette would have to be duplicated and turned over to the defendant's attorney.

ASSUMPTION (continued)

within ten days of arraignment. St. Louis City further assumes that most cassettes would have to be transcribed, as the defendant's attorney would have access to the information contained on the cassette. St. Louis City asserts that it would be unconstitutional to bill the defendant for the cost of the transcript, as this information must be provided in accordance with discovery rules. Therefore, the costs of this proposal would be borne by the local prosecuting attorney offices. St. Louis City estimates the cost of the cassettes and recording would be approximately \$5,000 annually. St. Louis City would require 1.0 FTE Stenographer (\$51,091 per year for salary and benefits), plus state-of-the-art recording and playback equipment. They would require two sets of recording equipment, at an initial cost of approximately \$10,000. Additionally, a storage and retrieval system would have to be developed for the long-term storage of all original tapes or stenographic notes, as all grand jury proceedings are felonies and most would require the evidence to be retained for at least ten years and possibly indefinitely. St. Louis City does not have adequate storage space available and this would be an additional expense that would be incurred. St. Louis City assumes this proposal would be a violation of Article X, Section 21 of the State Constitution by compelling them to assume additional costs and that the state should reimburse them.

Officials from the **Office of the Cole County Prosecuting Attorney** assume the proposal would have a significant fiscal impact on their budget. Cole County's grand jury meets on a regular basis to hear testimony regarding felony cases. Cole County assumes their costs for additional personnel, equipment, supplies, and storage would be approximately \$25,000 to \$30,000 annually.

Officials from the **Office of the Greene County Prosecuting Attorney** assume they will have to hire a court reporter and will incur transcribing costs. The grand jury meets on Mondays and Tuesdays (also occasionally on Wednesdays) once per month. The cost of a court reporter is estimated to be approximately \$288 (\$18 per hour for 16 hours) per month, transcribing costs are estimated to be approximately \$2,280 per month (800 pages at \$2.85 per page). Total costs are approximately \$30,816 annually.

Officials from the **Office of the Jackson County Prosecuting Attorney** assume this proposal would result in a significant fiscal impact on their budget. Jackson County's grand jury meets on a regular basis to hear testimony regarding felony cases. Jackson County assumes their costs for additional personnel would range from \$5,000 (part-time) to \$34,000 (full-time) annually. Additionally, Jackson County assumes the transcription costs incurred as a result of this proposal would be a minimum of \$26,500 annually.

ASSUMPTION (continued)

Officials from the **Office of the Boone County Prosecuting Attorney** assume this proposal would result in an unknown increase in costs to their office. Also, Boone County assumes additional resources would have to be expended to address the additional litigation by defense attorneys concerning matters which occur during grand jury proceedings.

**Oversight** assumes this proposal would have a fiscal impact on certain counties, as it would require all witness testimony heard in grand jury proceedings to be recorded stenographically or by an electronic recording device. Based on numerous conversations with local prosecutors, Oversight assumes the vast majority (80% to 90%) of the defendants who appear before a grand jury are represented by the state public defender system. Local prosecutors would be statutorily prohibited (Section 600.096, RSMo.) from passing the costs associated with this proposal on to the defendants represented by the state public defender system. Therefore, Oversight assumes at least 80% to 90% of the costs associated with this proposal would be borne by the local prosecuting attorneys, rather than the parties requesting copies of the transcript.

Officials from the **Office of Prosecution Services, Office of the Attorney General, and Office of the State Public Defender** assume the proposal would have no fiscal impact on their agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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**GENERAL REVENUE FUND**

Office of the State Courts Administrator <u>Cost</u> - Additional clerks, equipment, transcription charges, etc.	(Unknown)	(Unknown)	(Unknown)
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<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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**LOCAL GOVERNMENTAL ENTITIES**

<u>Cost</u> - Local Prosecuting Attorneys Recording and Transcription Costs	Exceeds (\$100,000)	Exceeds (\$100,000)	Exceeds (\$100,000)
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<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTAL ENTITIES</b>	<b>Exceeds (\$100,000)</b>	<b>Exceeds (\$100,000)</b>	<b>Exceeds (\$100,000)</b>
<u>FISCAL IMPACT - Small Business</u>			

No direct fiscal impact to small businesses would be expected as a result of this proposal.

#### DESCRIPTION

The proposed legislation requires a stenographic or electronic recording of all witness testimony before a grand jury. The proposal also provides that: (1) the record of the testimony must remain in the custody of the circuit clerk unless otherwise ordered by the court; (2) recorded testimony is a closed record pursuant to the state's Sunshine Law (Chapter 610, RSMo); and (3) transcripts must be accessible to the parties, at their cost, as provided by Missouri Supreme Court rule.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Office of State Courts Administrator  
Office of the Attorney General  
Office of Prosecution Services  
Office of the St. Louis County Prosecuting Attorney  
Office of the City of St. Louis Circuit Attorney  
Office of the Cole County Prosecuting Attorney  
Office of the Greene County Prosecuting Attorney  
Office of the Jackson County Prosecuting Attorney  
Office of the Boone County Prosecuting Attorney  
Office of the State Public Defender



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Director  
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